



Appeal Decision

by Jean Russell MA FRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2026

Appeal ref: APP/B5480/X/25/3368257

264 Elm Park Avenue, Havering, Hornchurch, RM12 4PQ

- The appeal is made by Mr Joshua Bwire under section 195 of the Town and Country Planning Act 1990 (as amended) against the decision of the Council of the London Borough of Havering to refuse to grant a certificate of lawful use or development (LDC).
 - The LDC application (ref: D0194.25) was dated 19 April 2025 and refused by notice dated 23 June 2025. It was made under section 192(1)(a) of the Town and Country Planning Act 1990 in respect of a proposed use described as "...use of the building as a residential family centre to provide parenting assessments and care for a maximum of two mothers with mild mental health challenges and two children".
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DECISION

1. The appeal is dismissed.

PRELIMINARY MATTERS

Lawfulness

2. This appeal is made to ascertain whether the proposed use, as described above, would have been lawful if it had been instituted or begun on the date of the lawful development certificate (LDC) application, namely 19 April 2025.
3. Under section 191(2) of the Town and Country Planning Act 1990 (TCPA90), uses are lawful at any time if no enforcement action may then be taken in respect of them perhaps because, as is claimed here, they do not involve development or require planning permission¹. The onus is on the appellant to make that case on the balance of probabilities. Their evidence should be accepted if it is sufficiently precise and unambiguous, and there is nothing to contradict their version of events or make it less than probable.
4. The planning merits of any use or development are not relevant in LDC cases. I cannot address any need for or benefits of the use, whether it would comply with planning policy, or concerns raised over parking provision or potential "annoyance" to neighbours. It was not necessary for me to visit the site, and I have decided this appeal on the papers.

Use Classes

5. In the banner heading above, I have quoted an abbreviated version of the proposed use as described in the application. The full description also included contextual information on what, in the appellant's view, the use would be changed from and to in terms of "use classes".

¹ S191(2) also requires that the use does not constitute a contravention of any of the requirements of any enforcement notice in force, but the use has not been begun and is not subject to any notice.

6. Use classes are set out in Schedules 1 and 2 to the Town and Country Planning (Use Classes) Order 1987 (UCO). They are relevant to this appeal because, under s55 of the TCPA90, “development” [which requires planning permission] includes the making of any material change in the use of any buildings or other land, but not a change from one use to another within the same use class.
7. The use classes which are relevant to this appeal decision are:
 - **C2:** Use for the provision of residential accommodation and care to people in need of care (other than a use within C3)...
 - **C3:** Use as a dwellinghouse (whether or not as a sole or main residence) by (a) a single person or by people to be regarded as forming a single household or (b) not more than six residents living together as a single household where care is provided for residents...
8. The appeal building is a terraced house with a single storey rear extension and accommodation, including three bedrooms, laid out over two floors. Its existing or last lawful use probably is or was a use falling within use class C3(a).

MAIN ISSUES

9. The main issues for this appeal are:
 - Firstly, whether the proposed use of the building as a residential family centre to provide parenting assessments and care for a maximum of two mothers with mild mental health challenges and two children would fall within use class C3(b). If the answer is yes, the change to that from the lawful C3(a) use would be a change of use within the same use class, which is exempted from the definition of development, and so the proposed use would be lawful.
 - If proposed use would **not** fall within C3(b), the change of use would not benefit from the statutory exemption, but the appeal would not necessarily fail. The second main issue would be whether the change from use as a single dwellinghouse to the proposed RFC would be a material one that requires planning permission. Use classes would have little relevance to this question.

REASONS

Use Class C3(b)

10. As set out in the appellant’s Planning Supporting Statement, “Residential Family Centres (RFCs) are specialised facilities that provide accommodation for children and their parents while assessing the parents’ capacity to care for their children...” The families are vulnerable by reason of “difficulties with parenting or...challenges such as domestic abuse, mental health issues or substance misuse”. RFCs are subject to regulatory requirements including OFSTED registration.
11. The proposed RFC would be occupied by up to two mothers with one baby or child each, reflecting that there are two double bedrooms in the building. Care for and supervision of the families would be provided on a 24/7 basis by a Registered Manager and support worker on rotating 12-hour shifts. However, staff would not sleep on the premises; the third bedroom would instead be used as their office. The building would also have a bathroom on the first floor and, on the ground, a kitchen, a living room, a dining room, a playroom and a second WC.

12. For a use to fall within class C3(a), the residents must “be regarded as forming a single household”. That means, in most cases, the residents will be members of the same family². For a use to fall within class C3(b), it is only necessary for the residents to be “living together as a single household”, meaning that they need not form one family but must live together as though they do.
13. The appellant states that the Registered Manager would oversee day-to-day operations at the RFC, including property upkeep as well as the provision of care and related administration. However, since the manager would not live here, they could not be considered a member of any resident household. The appellant has not identified which, if any, practical household duties would be jointly carried out by the resident parents.
14. The appellant relies on the residents sharing their living spaces, carrying out shared activities such as play with the children, and receiving shared support, not only from the on-site staff but also via collective visitor arrangements. However, it strikes me that the residents of some C2 uses such as nursing homes live in much the same way. These facets of the proposed RFC do not show that this use would probably fall within class C3(b).
15. I also note that residents would normally live in the RFC for no longer than three to nine months. If individual families move in and out as their own circumstances dictate, they could overlap with others for very little time. Any C3 use may be carried out by temporary occupiers, but what the appellant has not shown is how the use would intrinsically involve two families living together as though they are one, when the families would not only be unrelated but also necessarily vulnerable, perhaps for different reasons, and necessarily staying short-term.
16. It would not matter for C3(b) purposes if more than six people were sometimes present in the RFC; the requirement that there not be more than six **residents** would be met. I also accept that the mothers would be encouraged and may choose to cook, eat and/or look after their babies together, but that cannot be stretched into precise or unambiguous evidence of living together as a single household. That a local authority found that a supported living facility would fall within use class C3(b) is not sufficient for me to reach the same conclusion here.
17. I find that the proposed RFC use would probably amount to a ‘use for the provision of residential accommodation and care to people in need of care’ which falls within use class C2. It does not matter that the occupiers would be different from and have different needs to those of other C2 uses such as nursing or children’s homes. The factual evidence before me points to the nature of the use probably falling within C2 and not within C3(b). Thus, the proposed change of use would not be exempted from development under s55(2)(f).

Material Change of Use

18. A material change of use occurs where there is or would be some significant difference in the character of the activities taking place, compared to what went on before, as a matter of fact and degree. The decision-maker should have regard to

² The UCO specifies that, for the purposes of Class C3(a), the term “single household” shall be construed in accordance with s258 of the Housing Act 2004. It and associated regulations provide that persons are not to be regarded as forming a single household unless they are members of the same family or live-in employees, adult placement carers or persons living with a foster parent.

any on-site and/or off-site effects of the use which may be relevant in land use planning terms. I note that there would be no significant alterations to the external appearance of the building, the drive to its front or the garden to its rear.

19. The appellant has provided little detail of the previous use save that it fell within use class C3(a). I can reasonably infer that the building was probably used as a dwellinghouse by a single person, couple or family who required up to three bedrooms. Like any other household, they probably generated external activity and associated noise through recreational use of the garden plus comings and goings to work and perhaps school, for shopping, health and leisure trips and by visitors.
20. As indicated above, a use that falls within class C2 need not be materially different in character to one within C3(a). That may be the case, for example, where what was a small to medium-sized family home is used as a children's home for a few children who simply need accommodation and care from professional caregivers working and sleeping on the premises in place of parents.
21. However, the residents of the proposed RFC would comprise two families, albeit small ones, who would require support from staff working on the premises 24/7. The appellant has not explained the lack of sleeping space for the staff, so it is hard to avoid speculating that their work could be as intense as it is specialist. But even if that is wrong, the proposed RFC use would be liable to generate domestic activity from two households rather than one, plus the comings and goings of staff.
22. I am dubious as to the practicality of restricting visitors to one at a time per family. Any social worker may need to attend with a colleague or other professional. Any personal visitor may wish to come with a partner, friend and/or children. Likewise, it may prove unworkable to restrict visitors to the hours of 10.00-15.00. But even if the anticipated arrangements do prove sustainable, the comings and goings of professional as well as personal visitors would still be intrinsic to the proposed use.
23. I appreciate that residents of the appeal RFC would be unable to own cars, while local public transport services may reduce the extent to which staff or visitors need to park on or near to the site. I also accept that occupiers of any dwellinghouse may be vulnerable and/or require professional support at home, while some occupiers of the proposed RFC may need relatively little assistance or care. Even so, the appellant's evidence does not show that the proposed change of use of the building would probably not cause a material change in the character of the use.

CONCLUSION

24. Where an LDC is sought for a proposed use, the determination must be made on the appellant's description of the use. The local planning authority or Inspector may only amend the description under s191(4) of the TCPA90 where an LDC application or appeal concerns an existing use or development.
25. Had I decided to allow this appeal, however, I would have asked the appellant for his agreement to my amending the description to something more precise. I find that the phrase "mild mental health impairments" in particular is ambiguous and potentially stigmatising; it certainly fails to encompass the variety of circumstances in which, the appellant says, the mothers may require accommodation and care. I would have suggested an alternative description along these lines:

“Use of the building as an OFSTED-registered Residential Family Centre for the accommodation and care of up to two mothers with one child each, including the provision of parental assessments and support by a Registered Manager and support staff working on-site 24/7 together with [no more than [x]] professional visitors [at any one time] [during visiting hours limited to [x]].”

26. However, I must stress that the appellant’s original description of development has not affected the outcome of this appeal. I am satisfied that he set out the facts of the proposed use clearly in his evidence. His difficulty, however, was that those facts did not support his submissions either the residents would live together as a single household or that the change of use would not be material.
27. I conclude that, on the balance of probabilities, the proposed use would fall within use class C2 and a material change of use would be involved. Those findings should not be read as necessarily applying to any RFC. On the evidence before me, however, had the proposed use of the appeal building been instituted or begun on the date of the LDC application, enforcement action could probably have been taken on the basis that planning permission was required but not granted.
28. The Council’s decision to refuse to grant a certificate of lawful use in respect of the use of the building at 264 Elm Park Avenue, Hornchurch, RM12 4PQ as a residential family centre to provide parenting assessments and care for a maximum of two mothers with mild mental health challenges and two children was well-founded. I will exercise the powers transferred to me in s195(3) of the Town and Country Planning Act 1990 to dismiss the appeal.

Jean Russell

INSPECTOR